

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : **CRIMINAL NO.** _____

v. : **DATE FILED:** _____

JAMAL SMITH : **VIOLATIONS:**
: **18 U.S.C. § 371 (Conspiracy -1 Count)**
: **18 U.S.C. § 924(a)(1)(A) (False statements-1 Count)**
: **18 U.S.C. § 2 (Aiding and abetting)**
: **28 U.S.C. § 2461(c) and 18 U.S.C. § 924(d)**
: **(Notice of forfeiture)**

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

AT ALL TIMES MATERIAL TO THIS INDICTMENT:

1. The Suburban Armory, 1008 MacDade Blvd., Collingdale, Pennsylvania, was a federal firearms licensee ("FFL") and as such was authorized to deal in firearms under federal law.
2. FFLs were licensed, among other things, to sell firearms and ammunition. Various rules and regulations promulgated under the authority of Title 18, United States Code, Chapter 44 (Sections 921-929), govern the manner in which an FFL may sell firearms and ammunition.
3. The rules and regulations governing FFLs required that a person seeking to purchase a firearm fill out a "Firearms Transaction Record," ATF Form 4473. Part of the Form 4473 required that the prospective purchaser certify truthfully, subject to penalties of perjury, that he or she was the actual buyer of the firearm. The Form 4473 contained language stating:

“Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.”

4. FFLs were required to maintain a record, in the form of a completed Form 4473, of the identity of the actual buyer of firearms sold by the FFL.

5. Defendant JAMAL SMITH was barred from legally purchasing and possessing a firearm because he had previously been convicted of a felony crime for which he could be punished by more than one year of imprisonment.

6. On or about April 26, 2002, in the Eastern District of Pennsylvania, defendant

JAMAL SMITH

conspired and agreed with others known and unknown to the grand jury, including Person No. 1 unknown to the grand jury, to commit an offense against the United States, that is, to make false statements with respect to the information required to be kept in the records of a federally licensed firearms dealer, in violation of Title 18, United States Code, Section 924(a)(1)(A).

MANNER AND MEANS

It was part of the conspiracy that:

7. Defendant JAMAL SMITH, acting on behalf of himself and Person No. 1, directed his sister, Person No. 2 known to the grand jury, who was not prohibited from purchasing firearms for herself, to purchase a firearm for him and for Person No. 1, by falsely representing to the firearms dealer that she, rather than defendant JAMAL SMITH and Person No. 1, was the actual buyer of the firearm.

8. After the purchase, defendant JAMAL SMITH instructed Person No. 2 to falsely report the firearm stolen in order to avoid connecting the firearm purchase to its subsequent use.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its object, the following overt acts, among others, were committed in the Eastern District of Pennsylvania and elsewhere:

1. On or about April 26, 2002, in Philadelphia, Pennsylvania, defendant JAMAL SMITH drove a car with Person No. 1 in it, and picked up Person No. 2.

2. On or about April 26, 2002, defendant JAMAL SMITH and Person No. 1 entered The Suburban Armory, 1008 MacDade Blvd., Collingdale, Pennsylvania, and picked out a Ruger model KP 95, 9 mm pistol for purchase.

3. On or about April 26, 2002, defendant JAMAL SMITH and Person No. 1 exited The Suburban Armory, 1008 MacDade Blvd., Collingdale, Pennsylvania, and described to Person No. 2 the Ruger model KP 95, 9 mm pistol they had selected for purchase.

4. On or about April 26, 2002, Person No. 2, acting on behalf of defendant JAMAL SMITH and Person No. 1, entered The Suburban Armory, 1008 MacDade Blvd., Collingdale, Pennsylvania, and picked out a Ruger model KP 95, 9 mm pistol, bearing serial number 314-88627, and purchased it, along with ammunition, fraudulently representing on the 4473 form that she was the actual buyer of the firearm.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 5 and 7 through 8 of Count One are realleged.
2. On or about the date specified below, in the Eastern District of Pennsylvania, and elsewhere, defendant

JAMAL SMITH,

in connection with the acquisition of the firearm listed below, knowingly made, and aided and abetted and willfully caused the making of, a false statement and representation with respect to the information required by the provisions of Title 18, United States Code, Chapter 44, to be kept in the records of a federally licensed firearms dealer, in that Person No. 2, at the direction of defendant JAMAL SMITH and Person No. 1, falsely represented that she was the actual buyer of the firearm described below, when in fact the defendant knew that representation to be false.

<i>DATE</i>	<i>FFL</i>	<i>FIREARM</i>
April 26, 2002	The Suburban Armory 1008 MacDade Blvd., Collingdale, PA	Ruger model KP 95, 9 mm pistol, bearing serial number 314-88627

In violation of Title 18, United States Code, Sections 924(a)(1)(A) and 2.

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Sections 371 and 924(a)(1), as set forth in Counts One and Two of this Indictment, defendant

JAMAL SMITH

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), all firearms and ammunition involved in the commission of these offenses, including, but not limited to: a Ruger model KP 95, 9 mm pistol, bearing serial number 314-88627 and ammunition.

All pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 924(d).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney